



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

October 16, 2014

VIA ELECTRONIC MAIL

Mr. Stewart Boyd
Prosperity Mine LLC
1183 East Canvasback Drive
Terre Haute, Indiana 47802

Dear Mr. Boyd:

Re: NPDES General Permit No. ING040166
Permit Transfer of Ownership
(Former) Five Star Mining, Inc. - Prosperity Mine
(Now) Prosperity Mine LLC
6594 West State Road 56
Petersburg, Indiana 47567
Pike County

This office has received and reviewed correspondence signed by Mr. Brent K Bilsland on your behalf on September 3, 2014, and by Mr. Timothy J. Kerr of Five Star Mining, Inc. on August 25, 2014. In this correspondence they report that a transfer of ownership of the above-referenced site is taking place, and request the transfer of NPDES permit coverage under ING040166 from Five Star Mining, Inc. to Prosperity Mine LLC. Mr. Kerr and Mr. Bilsland have requested that this transfer of coverage be deemed effective as of October 3, 2014. An NOI requesting the modification of the permit to include the related changes in contact information was also received. We have determined that the information contained in these submittals meets the conditions of 327 IAC 15-2-8 (a).

Although this is a transfer of ownership it is understood that no other changes in location, processes, or personnel will be made when the new ownership takes effect. It therefore will not affect the permittee's eligibility for coverage under the general permit rules outlined in 327 IAC 15-1 through 15-4 and 327 IAC 15-7, Facilities Engaged in Mining of Coal, Coal Processing, and Reclamation Activities, nor will it affect the site's ability to meet the reporting requirements. Therefore, the Indiana Department of Environmental Management (IDEM) recognizes the transfer of NPDES Permit No. ING040166 from Five Star Mining, Inc. to Prosperity Mine LLC.

As all NPDES permit coverage effective dates must be the first of the month this transfer of coverage will be deemed effective **October 1, 2014**. Attachment 1 listing in detail the outfalls that are included for coverage under this permit is enclosed with this correspondence.



A State that Works

Mr. Stewart Boyd
Page 2

The NPDES general permit identification number assigned to this facility in the previous approval will remain unchanged and should be included on all correspondence submitted to IDEM in relation to this NPDES general permit. Due to the fact that 327 IAC 15-7 is a permit by rule, you will NOT be receiving an actual permit. This letter will serve as your verification of the change. All conditions of coverage under 327 IAC 15-7 will remain as was stated previously in the NPDES coverage letter dated November 15, 2013. In order to receive authorization to discharge beyond the April 30, 2019 date of expiration stated therein, the permittee shall submit such information and forms as required by the Indiana Department of Environmental Management no later than ninety (90) days prior to the date of expiration.

Please note that in accordance with 327 IAC 15-7-5(c), IDEM shall public notice its decision to accept this transfer of ownership for your facility with continued coverage under the general permit rule.

If you have any questions regarding this letter, please contact Ms. Sheri L. Jordan at (317) 232-8703.

Sincerely,



Catherine Hess, Chief
Permits Administration Section
Office of Water Quality

Sij/
Attachment
Pike County Health Department
Mr. Timothy J. Kerr
Five Star Mining, Inc.
6594 West State Road 56
Petersburg, Indiana 47567

ATTACHMENT 1

Prosperity Mine LLCNPDES PERMIT NO. **ING040166**EFFECTIVE DATE: **October 1, 2014**IDNR PERMIT NUMBERS **U- 0025**

OUTFALLS PERMITTED FOR THIS FACILITY

OUTFALL	DNR BASIN	LATITUDE	LONGITUDE	MINE DRAINAGE STATUS	RECEIVING WATER
001	SB-I	38°, 29', 36"	-87°, 23', 36"	Alkaline	Conger Creek
002	SB-C	38°, 29', 30"	-87°, 23', 54"	Alkaline	Conger Creek
003	SB-F	38°, 29', 41"	-87°, 23', 54"	Alkaline	Conger Creek
004	SB-G	38°, 29', 30"	-87°, 24', 12"	Alkaline	Conger Creek
005	SB-J	38°, 29', 25"	-87°, 23', 21"	Alkaline	Conger Creek
006	SB-E	38°, 29', 47"	-87°, 22', 41"	Alkaline	Conger Creek

**STATE OF INDIANA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

PUBLIC NOTICE NO. 2014 – 10D -GP

DATE OF NOTICE: October 16, 2014

The Office of Water Quality issues the following **NPDES GENERAL PERMIT**.

MODIFICATION

PROSPERITY MINE LLC, Permit No. ING040166, PIKE COUNTY, Petersburg, IN. This facility discharges non-process wastewater to Conger Creek. This modification is being issued because of transfer of ownership ~~from~~ Five Star Mining Inc. ~~to~~ Prosperity Mine LLC. The Notice of Intent (NOI) letter submitted complies with the requirements in 327 IAC 15-7, Facilities Engaged in Mining of Coal, Coal Processing and reclamation Activities. Permit Writer: Sheri Jordan at 317/232-8703.

PROCEDURES TO APPEAL

General Permit documents are available for inspection at IDEM, Office of Water Quality/Permit Section, IGCN, 100 N Senate Ave, Indianapolis, IN, Room 1203, from 9 - 4, Monday-Friday (copies 10¢ per page). The General Permit is also available at the local Health Department. Please tell others you think would be interested in this matter.

Appeal Procedure: Any person affected by the issuance of the Final Permit may appeal by filing a Petition for Administrative Review with the Office of Environmental Adjudication **within** eighteen (18) days of the date of this Public Notice. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant; a person aggrieved or adversely affected or is otherwise entitled to review by law.

Timely filing: The Petition for Administrative Review must be received by the Office of Environmental Adjudication (OEA) **within** 18 days of the date of this Public Notice; either by U.S. Mail postmark or by private carrier with dated receipt. This Petition for Administrative Review represents a request for an Adjudicatory Hearing, therefore must:

- state the name and address of the person making the request;
- identify the interest of the person making the request;
- identify any persons represented by the person making the request;
- state specifically the reasons for the request;
- state specifically the issues proposed for consideration at the hearing;
- identify the Final Permit Rule terms and conditions which, in the judgment of the person making the request, would be appropriate to satisfy the requirements of the law governing this NPDES Permit rule.

If the person filing the Petition for Administrative Review desires any part of the NPDES Final Permit Rule to be stayed pending the outcome of the appeal, a Petition for Stay must be included in the appeal request, identifying those parts to be stayed. Both Petitions shall be mailed or delivered to the address here:
Phone: 317/232-8591.

Environmental Law Judge
Office of Environmental Adjudication
IGC – North Building- Rm 501
100 N. Senate Avenue
Indianapolis IN 46204

Stay Time frame: If the Petition (s) is filed **within** eighteen (18) days of the mailing of this Public Notice, the effective date of any part of the permit, within the scope of the Petition for Stay is suspended for fifteen (15) days. The Permit will become effective again upon expiration of the fifteen (15) days, unless or until an Environmental Law Judge stays the permit action in whole or in part.

Hearing Notification: Pursuant to Indiana Code, when a written request is submitted, the OEA will provide the petitioner or any person wanting notification, with the Notice of pre-hearing conferences, preliminary hearings, hearing stays or orders disposing of the Petition for Administrative Review. Petition for Administrative Review must be filed in compliance with the procedures and time frames outlined above. Procedural or scheduling questions should be directed to the OEA at the phone listed above.



Five Star Mining, Inc.

6594 West State Road 56
Petersburg, IN 47657
Phone: (812) 354-6883

IDEM
OFFICE OF
WATER QUALITY

2014 SEP -5 P 2: 20

August 27, 2014

Indiana Department of Environmental Management
Office of Water Quality – Mail Code 65-42
NPDES Permits Section
100 North Senate Ave.
Indianapolis, IN 46204-2251

RE: Five Star Mining, Inc. – Prosperity Mine
Request for Transfer of NPDES Permit ING040166

To Whom It May Concern:

Please accept this letter as Five Star Mining, Inc.'s request and authorization for the Office of Water Quality to transfer the ownership rights, responsibilities and coverage for the above referenced NPDES permit from Five Star Mining, Inc. to Prosperity Mine, LLC pursuant to the provisions of 327 IAC 15-2-8. The proposed date of the transfer is October 3, 2014. Five Star Mining, Inc. acknowledges that it is responsible for any violations up to that date and that Prosperity Mine LLC will be responsible for any such violations on and after that date.

Prosperity Mine LLC is currently pursuing regulatory approval from the Indiana Department of Natural Resources, Division of Reclamation for transfer of underground coal mining permit U-25 to their company for mining operations at the Prosperity Mine.

Should you have any questions concerning this matter, please contact Mr. James Buck with Buckridge Environmental Engineering, Inc. by telephone at (812) 858-9970.

Sincerely,

Timothy J. Kerr, Attorney-in-fact
Five Star Mining, Inc.

TJK/JWB:jb

xc: Sam Elder – Sunrise Coal
Jim Buck – Buckridge Environmental



PROSPERITY MINE LLC

IDEM
OFFICE OF
WATER QUALITY

August 27, 2014

2014 SEP -5 P 2:19

Indiana Department of Environmental Management
Office of Water Quality – Mail Code 65-42
NPDES Permits Section
100 N. Senate Avenue
Indianapolis, IN 46204-2251

RE: Prosperity Mine
Transfer of NPDES Permit ING040166

Dear Ms. Jordan:

Prosperity Mine LLC is requesting the transfer of existing NPDES General Permit No. ING040166 from Five Star Mining, Inc. for discharges under 327 IAC 15-7 for Facilities Engaged in Mining Coal, Coal Processing and Reclamation Activities at the Prosperity Mine. Prosperity Mine LLC is currently pursuing regulatory approval from the Indiana Department of Natural Resources, Division of Reclamation for transfer of underground coal mining permit U-25. Enclosed please find the necessary information for transfer of existing NPDES Permit ING040166 pursuant to 327 IAC 15-2-8.

The following information is being submitted in support of this request:

- A letter from Five Star Mining, Inc., the current permittee, notifying the Commissioner at least 30 days in advance of the proposed transfer date;
- A written agreement between Five Star and Prosperity Mine LLC specifying the date for transfer of the responsibilities and coverage of the permit. The agreement includes an acknowledgement by Five Star that they are responsible for any violations up to that date and an acknowledgement by Prosperity Mine LLC that they will be responsible for any violations from that date on, and;
- Certification by Prosperity Mine LLC that it is its intention to operate the facility without making such material and substantial alterations to the facility that would significantly change the nature or quantities of pollutants discharged.

Should you have any questions concerning this matter or require additional information, please contact Mr. Stewart Boyd with Prosperity Mine LLC at the address and telephone number shown below.

Sincerely,

Brent K. Bilsland
President

BKB/JWB:jb
Enclosures

xc: Sam Elder – Sunrise Coal (w/ enclosures)
Tim Kerr – Five Star (w/ enclosures)
Jim Buck – Buckridge Environmental (w/ enclosures)
IDNR - Division of Reclamation (w/ enclosures)

**NOTIFICATION OF TRANSFER OF
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT**

Pursuant to 327 Indiana Administrative Code (IAC) 15-2-8(a), the undersigned parties hereby notify the Indiana Department of Environmental Management (IDEM) of their intention to transfer National Pollutant Discharge Elimination System (NPDES) Permit No. ING040166 from Five Star Mining, Inc., the "current permittee" to Prosperity Mine LLC, the "transferee", effective as of October 3, 2014.

The current permittee acknowledges liability for violations up to the proposed date of permit transfer, and the transferee acknowledges liability for violations on and after the proposed date of permit transfer.

The transferee certifies that it is its intention to operate the facility for which NPDES Permit No. ING040166 is issued without making such material and substantial alterations to the facility as would significantly change the nature or quantities of pollutants discharged, and thus constitute cause for permit modification under 327 IAC 5-2-16(d).

The undersigned parties understand that the permit transfer will become effective on the proposed date of permit transfer provided that:

1. The information contained in this notification is complete, true, and accurate;
2. This notification is received by IDEM at least 30 days prior to the proposed date of permit transfer; and
3. IDEM does not, within 30 days of receipt of this notification, advise the undersigned parties of its intent to modify, revoke and reissue, or terminate the permit, and to require that a new NPDES permit application be filed, rather than agreeing to the transfer of the NPDES Permit.

"Current Permittee" Information and Signature Page

Please provide the following information regarding the facility for which the NPDES Permit is currently issued:

Current Name of the Facility:

Five Star Mining, Inc. – Prosperity Mine

Current Address of the Facility:

6594 West State Road 56

Petersburg, IN 47567

Current Phone Number of the Facility:

(812) 354 – 6883

Please provide the following information regarding the "Current Permittee":

Name of the Responsible Official:

Timothy J. Kerr

Title of the Responsible Official:

Attorney-In-Fact

Address of the Responsible Official:

6594 West State Road 56

Petersburg, IN 47567

Phone Number of the Responsible Official:

(812) 845 – 2717

Certification Statement

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."


Signature of Responsible Official

8/25/14

Date

"Transferee" Information and Signature Page

Please provide the following information regarding the facility for which the NPDES Permit is proposed to be transferred:

New Name of the Facility (if different from current name):

Prosperity Mine LLC

New Address of the Facility (if different from the current address):

Same as above

New Phone Number of the Facility (if different from the current phone number):

Same as above

Please provide the following information regarding the "Transferee":

Name of the Responsible Official:

Brent K. Bilsland

Title of the Responsible Official:

President

Address of the Responsible Official:

1183 East Canvasback Drive

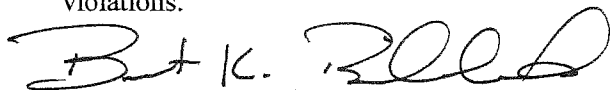
Terre Haute, IN 47802

Phone Number of the Responsible Official:

(812) 299 - 2800

Certification Statement

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."



Signature of Responsible Official

9/2/14
Date

